

March 4, 2024
Garner, Iowa

The Hancock County, Iowa, Board of Supervisors met in adjourned session on the above captioned date pursuant to adjournment with Supervisors Florence (Sis) Greiman, Gary Rayhons, and Jerry J. Tlach present. Absent: none.

The minutes of February 26, 2024 meeting were read and approved.

On motion by Supervisor Tlach, seconded by Supervisor Greiman and carried unanimously, the Board gave approval to the following Resolution:

RESOLUTION NO. 2024-010

**RESOLUTION BY THE HANCOCK COUNTY BOARD OF
SUPERVISORS REGARDING RESTRICTIONS ON ACTIVITIES
WITHIN DRAINAGE DISTRICT RIGHT OF WAY**

WHEREAS, the Board of Supervisors (hereinafter “Board”), as trustees of individual drainage districts, is responsible for the maintenance and management of the drainage districts, levee districts, intracounty drainage districts, and intracounty levee districts established under Iowa Code chapter 468 (hereafter sometimes referred to as the “Drainage District”); and

WHEREAS, Iowa Code section 468.2 provides: “[t]hat drainage of surface waters from agricultural lands and all other lands or the protection of such lands from overflow shall be presumed to be a public benefit and conducive to the public health, convenience and welfare”; and

WHEREAS, drainage districts are funded by the significant investment of benefitted landowners to drain and protect the ground to increase yields; and

WHEREAS, it is the duty of the Board to protect the investments made by landowners in drainage districts, levee districts, and lands that would benefit from being drained; and

WHEREAS, Iowa Code §468.27 provides that upon establishment of a district the drainage district is deemed to have acquired by permanent easement all rights-of-way for drainage district ditches, tile lines, settling basins and other improvements; and

WHEREAS, Iowa Code §468.126 provides that when a drainage district has been established and the improvement constructed the improvement shall be at all times under the supervision of the Board of Supervisors, except as otherwise provided for control and management by a board of trustees and the Board shall keep the improvement in repair; and

WHEREAS Iowa Code §468.138 requires the Board to remove any obstructions which interferes with the flow of water, including trees, hedges or shrubbery and the roots thereof; and

WHEREAS, Iowa Code sections 468.148 and 468.149 provide remedies and penalties for any person who shall divert, obstruct or injure any ditch drain or other drainage improvements; and

WHEREAS Iowa Code §468.152 provides that the landowner may have any beneficial use of the land to which the landowner has fee title and which is occupied by the waste banks of an open ditch when such use does not interfere in any way with the easement or rights of the drainage district but requiring the landowner to preserve the berms of such open ditch without depositing any additional dirt upon them; and

WHEREAS, it is in the best interest of the public health, convenience and welfare for the Board to establish by resolution specific rules and restrictions prohibiting any person from engaging in activities upon the drainage district's easement and right-of-way that negatively impacts the performance or lifespan of the district improvement.

NOW THEREFORE BE IT RESOLVED

That in addition to the requirements contained in Iowa Code Chapter 468, the Board of Supervisors of Hancock County adopts the following rules and restrictions relating to activities in, around and upon the easement and right-of-way for Drainage Districts under its jurisdiction.

1. No person shall modify, change or alter any portion of an open drainage ditch, including but not limited to the ditch bottom, side slopes or banks.
2. No person may alter the vegetation within the drainage district easement or right-of-way without the written permission of the Drainage District.
3. No person shall take any action which serves to adversely affect the flow of water in an open drainage ditch and which reduces the performance of the drainage ditch from its intended design.
4. No person shall perform any excavation within a Drainage District easement or right-of-way without written permission from the Drainage District.
5. No person shall dump, empty or deposit any waste, junk, chemicals, or other materials, whether organic, natural or man-made, within a Drainage District easement or right-of-way.
6. Adjoining landowners shall be responsible to remove any vegetation, including root systems, outside the drainage district easement and right-of-way which adversely affects any open drainage ditch and to repair any damage to the drainage ditch at landowner's cost.
7. Violation of these rules and restrictions shall constitute an injury or obstruction to the Drainage District improvement for purposes of sections 468.148 and 468.149 of the Iowa Code and the Drainage District shall be entitled to pursue any remedy, legal or

equitable, available pursuant to Chapter 468, any other applicable statute or common law.

On motion by Supervisor Greiman, seconded by Supervisor Tlach, and carried unanimously, the Board gave approval to the following: Class C retail alcohol license for Slippery Elm Inc. doing business as Slippery Elm Golf Course with outdoor service.

On motion by Supervisor Greiman, seconded by Supervisor Tlach, and carried, the Board authorized the County Auditor to issue checks for the claims on file this date, March 4, 2024. A full listing of all claims paid in March 2024 will be published in the March 18, 2024 minutes.

On a joint teleconference with Cerro Gordo County Board of Supervisors, Casey Callanan, Lori Ginapp and Chris Watts, Absent: none; and Hancock County Board of Supervisors, Florence (Sis) Greiman, Gary Rayhons, and Jerry Tlach, Absent: none; motion by Supervisor Callanan, seconded by Supervisor Tlach, and carried unanimously, the Joint Board gave approval to the following: Tentatively approved Engineer Tyler Conley's annexation of lands report for Cerro Gordo County Drainage District no. 16. On motion by Supervisor Callanan, seconded by Supervisor Greiman, and carried unanimously, the Joint Board gave approval to the following: Tentatively approved Engineer Tyler Conley's annexation of lands report for Joint Drainage District no. 123-113. On motion by Supervisor Callanan, seconded by Supervisor Tlach, and carried unanimously, the Joint Board gave approval to the following: Set the date and time for hearing with landowners on the annexation of lands report for April 15, 2024 at 10:30 a.m. On motion by Supervisor Callanan, seconded by Supervisor Greiman, and carried unanimously, the Joint Board gave approval to the following: Tentatively approved the commissioner's report on reclassification of lands for Joint Drainage District no. 123-113 and Cerro Gordo County Drainage District no. 16. On motion by Supervisor Watts, seconded by Supervisor Tlach, and carried unanimously, the Joint Board gave approval to the following: Set the date and time for hearing on reclassification of lands report for Joint Drainage District no. 123-113 and Cerro Gordo County Drainage District no. 16 for April 15, 2024 at 10:35 a.m.

No further business to come before the Board, motion made to adjourn at 10:39 a.m. by Supervisor Greiman and carried. All Supervisors present voting, "Aye," session to adjourn and will meet again on March 11, 2024.

ATTEST: _____
Michelle K. Eisenman, Auditor

Gary Rayhons, Chair